

#### **3009.570-4**

(b) Consider all information regarding the prospective contractor's direct financial interests in view of the prohibition at (HSAR) 48 CFR 3009.570-2(a); and

(c) Apply the following procedures:

(1) After assessing the offeror's direct financial interests in the development or construction of any individual system or element of any system of systems, if the offeror—

(i) Has no direct financial interest in such systems, the contracting officer shall document the contract file to that effect and may then further consider the offeror for award of the contract;

(ii) Has a direct financial interest in such systems, but the exception in (HSAR) 3009.570-2(b)(2) applies, the contracting officer shall document the contract file to that effect and may then further consider the offeror for award of the contract;

(iii) Has a direct financial interest in such systems and the exception in (HSAR) 3009.570-2(b)(2) does not apply, but the conditions in (HSAR) 3009.570-2(b)(1)(i) and (ii) do apply, the contracting officer—

(A) Shall document the contract file to that effect;

(B) May, in coordination with program officials, request an exception for the offeror from the Secretary of Homeland Security, in accordance with Homeland Security Acquisition Manual section 3009.570; and

(C) Shall not award to the offeror unless the Secretary of Homeland Security grants the exception and provides the required certification to Congress; or

(iv) Has a direct financial interest in such systems and the exceptions in (HSAR) 3009.570-2(b)(1) and (2) do not apply, the contracting officer shall not award to the offeror.

[75 FR 41099, July 15, 2010]

#### **3009.570-4 Solicitation provision and contract clause.**

(a) Use the provision at (HSAR) 48 CFR 3052.209-74, Limitations on Contractors Acting as Lead System Integrators, in solicitations for the acquisition of a major system when the acquisition strategy envisions the use of a lead system integrator.

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(b) Use the clause at (HSAR) 48 CFR 3052.209-75, Prohibited Financial Interests for Lead System Integrators—

(1) In solicitations that include the provision at (HSAR) 48 CFR 3052.209-74; and

(2) In contracts when the contractor will fill the role of a lead system integrator for the acquisition of a major system.

[75 FR 41099, July 15, 2010]

### **PART 3010—MARKET RESEARCH [RESERVED]**

### **PART 3011—DESCRIBING AGENCY NEEDS**

#### **Subpart 3011.1—Selecting and Developing Requirements Documents**

Sec.

3011.103 Market acceptance.

#### **Subpart 3011.2—Using and Maintaining Requirements**

3011.204-70 Solicitation provisions and contract clauses.

#### **Subpart 3011.5—Liquidated Damages**

3011.501 Policy.

#### **Subpart 3011.6—Priorities and Allocations**

3011.602 General.

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

#### **Subpart 3011.1—Selecting and Developing Requirements Documents**

##### **3011.103 Market acceptance.**

(a) Contracting officers may act on behalf of the head of the agency in this subpart only. Contracting officers may, under appropriate circumstances, require offerors to make the required demonstrations.